



PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of

Yuuichirou OGAWA

Group Art Unit: 1791

Application No.: 10/511,137

Examiner: J. FISCHER

Filed: August 22, 2005

Docket No.: 121506

For: RUNFLAT TIRE AND THE METHOD OF BUILDING THE SAME

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This request is being filed with a Notice of Appeal and Petition for Extension of Time. Review of the April 2, 2008 Final Rejection is requested for the reasons set forth in the attached five or fewer sheets.

Should any questions arise regarding this submission, or the Review Panel believe that anything further would be desirable in order to place this application in even better condition for allowance, the Review Panel is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,


James A. Oliff
Registration No. 27,075

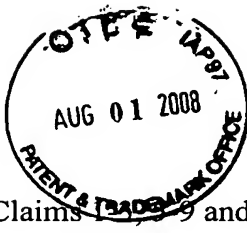
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REMARKS

Claims 1-3, 5-9 and 12-14 are pending in this application. The Office Action, in paragraph 4, rejects claims 1-3, 5-9 and 12-14 under 35 U.S.C. §103(a) as being unpatentable over JP-A-2000-071722 to Ogawa (the English-language equivalent to which reference will be made in this response is U.S. Patent No. 6,929,045) and further in view of U.S. Patent Application Publication No. 2005/0230021 to Cottrell and U.S. Patent No. 6,079,467 to Ueyoko. This rejection is respectfully traversed.

Independent claim 1 recites, among other features, wherein the bead includes a pair of split bead cores, the split bead cores being disposed on both sides of the carcass to sandwich the carcass, and wherein an inner end in the tire's radial direction of the split bead cores outside as viewed from the tire's width direction is so placed that a vertical distance from a tire bead base or its extension is not more than 3 mm. The above combination of applied references cannot reasonably be considered to have suggested these features.

At the outset, it should be noted that the Office Action's reliance on Ogawa and Ueyoko is unreasonable. The pending claims recite runflat tires. Ogawa and Ueyoko are not directed to runflat tires. The means for achieving any object to which the pending claims pertain cannot be derived from these references. The claimed tire aims to increase the durability and the bead-securing force even when the internal pressure is 0 kPa. Therefore, the claimed tire provides advantages not realized by the prior art.

In response to the above argument, a July 2 Advisory Action broadly asserts that one of ordinary skill "would have found it obvious to include a runflat insert in a tire of Ogawa in view of Cottrell for the benefits of improved running during an under inflated condition. It is emphasized that Cottrell is similarly directed to a non-conventional carcass structure (one formed of individual cords, as opposed to calendered plies) and thus the teachings of Cottrell are directly analogous to the tire construction of Ogawa." No objective evidence of record

has been presented to support such an assertion, which appears to be based on supposition and further is a mere conclusory statement fails to meet the appropriate standard set forth in *In re Kahn* (citations omitted), which was favorably endorsed by the U.S. Supreme Court in *KSR*, stating that obviousness rejections cannot be based on mere conclusory statements. It is not enough for the Office Action, or Advisory Action, to broadly assert that such a combination would have been predictably made without being able to support that conclusion with any more than broad assertions which fail to provide any objective evidence of record.

Furthermore, the combination of applied references cannot reasonably be considered to have suggested at least the feature, wherein an inner end in the tire's radial direction of the split bead cores outside as viewed from the tire's width direction is so placed that a vertical distance from a tire bead base or its extension is not more than 3 mm. The Office Action relies on Ueyoko for suggesting the claimed vertical distance recited in claim 1, asserting that Applicant has not provided a conclusive showing of unexpected results to establish a criticality for the claimed spacing. Applicant respectfully disagrees with these assertions.

The assertion that the dimension T4, disclosed in col. 5, lines 40-50 of Ueyoko, allegedly corresponds to the claimed vertical distance is unreasonable. In contrast to claim 1, the distance T4 in Ueyoko is not a vertical distance, but the shortest distance (minimum rubber thickness) from the bead bottom face 4s to the carcass cord. Ueyoko fails to teach the claimed vertical distance. In response to Applicant previously having made this argument, the Office Action agreed that the distance in Ueyoko is not vertical, but the distance in Ueyoko would be expected to be extremely close to one another, particularly since the respective values are relatively small. The Office Action reads out of Applicant's claims the positively recited claim term "vertical" distance. The Advisory Action then attempts to redefine "vertical" in a manner that supports its conclusion, asserting that "the distance would have been a true radial measurement." Attempting to construct a definition for vertical from

the disclosure of the applied references in this manner is unreasonable. At the bottom of page 2 and the top of page 3 of the Advisory Action, a specific passage is underlined apparently for emphasis to conclude that benefits which the Advisory Action indicates are attributable to the configurations taught by the applied references are directly analogous to the alleged benefits of the claimed invention. Again this mere conclusion is not supported by any objective evidence of record. The conclusions of the Advisory Action, grounded in a global presumption that tires are tires cannot be the basis for attempting to render obvious the combinations of positively recited features of Applicant's claims.

The assertion that Applicant has not shown the criticality of the claimed range is without merit. Table 1 of the present application, particularly Examples 2 and 4, show test results for durability and bead-securing force of these Examples. A comparison of these Examples shows that the pitch P , the number of carcasses n , the value $L (P/n)$, the type of bead and the overlap portion are all the same. Table 1 shows that in Example 2, a distance between the bead inner end and the bead base is 5 mm, and in Example 4, the distance is 3 mm. Finally, Table 1 shows that the durability and the bead-securing force are significantly better in terms of performance than the tire in Example 2. Clearly, a comparison between Example 4 and Example 2 shows the criticality of the claimed vertical distance.

The Office Action rebuts this argument by stating that the reference "generally recognizes the benefits of having a small separation between the bottom of the bead core and the tire bead base," and asserts that it is the Examiner's position that such a relationship would be highly desirable in a tire construction with or without a runflat insert. It is based on the Examiner's position in this regard, again not supported by any objective evidence of record, that one of ordinary skill would have combined Ueyoko with Ogawa to get something close to the claimed range. The Office Action dismisses Applicant's showing of an advantage by asserting that the advantage would flow naturally from following suggestions of the prior art.

Applicants addressed the issue of anticipation of specific ranges, referencing MPEP at §2131, on page 11 of Applicant's June 24 Amendment After Final Rejection. The conclusion is that broad assertion of some arguably inclusive range in the reference does not disclose the claimed range with sufficient specificity to render it anticipating as to that feature. The Advisory Action does not even address Applicant's arguments in this regard.

The Office Action concedes that the evidence in the specification shows that the disclosed structure realizes an increase in durability and bead securing force. The Office Action then concludes, however, that this evidence does not provide, in the Examiner's opinion, "a conclusive showing of unexpected results [because] examples do not demonstrate a significant improvement in either property" (emphasis added). "Significant improvement" is not the relevant standard. It is, rather, unexpected results. Further, it has not been shown that an approximately 2% increase is not "significant." MPEP §2145 provides that consideration of rebuttal evidence and arguments require Office personnel to give weight to the proffered evidence and arguments. Office personnel should avoid giving evidence no weight, except in rare circumstances. Other than asserting that the evidence is simply not enough, the Advisory Action fails to address Applicant's assertions in this regard as well.

Claim 1 specifies a distance to effectively prevent the deformation at the lower part of the bead portion, this deformation being an inherent problem in a runflat tire that may or may not have been recognized by the non-runflat tires that the Office Action applies. The split bead cores of the pending claims effectively prevent the carcass ply from pulling out of the bead portions. It is a synergistic action of this specific configuration that allows the bead structure of the pending claims to exert a surprisingly high anchoring effect capable of standing up under the most severe runflat conditions. The tires disclosed in Ogawa and Ueyoko are not for maintaining such a configuration in an under-inflated condition. The

Office Action cannot continue to fill in gaps in its obviousness analysis with mere conclusory statements, observations and/or suppositions that are not adequately supported.

The combination of applied references would not have suggested the combination of all of the features positively recited in each of claims 7 and 8 either. In addition to the above, claims 7 and 8 recite as viewed in a section in the tire's width direction under a condition where the tire is assembled to a standard rim to form a tire/wheel assembly and then a maximum load is applied to the tire with no inner pressure applied thereto, the folded end of the turn-up layer is laid, in the tire's radial direction, outside of a line segment QB which connects an outermost point Q of a rim guard in the tire's width direction and an intersection B of the inner surface of the tire and a line extending outwardly in the tire's radial direction from the outermost point Q at an angle of 60 degrees in relation to a line parallel to the rim radial line. None of Ogawa, Cottrell, or Ueyoko, individually or in combination, would have suggested such features.

The Office Action, at the bottom of page 7 and the top of page 8 states, again in mere conclusory manner, while "it is agreed that Ogawa fails to teach the angle of the turn-up layer in relation to a line parallel to the rim radial line, Ogawa generally teaches embodiments in which the carcass turn-up is low or high. It appears that a high turn-up arrangement satisfies the claimed invention (emphasis added)." It is incongruous to base an obviousness rejection on some conclusion of an appearance that an arrangement satisfies the claimed invention when "it is agreed that [the reference] fails to teach" the particularly relied upon feature.

For all of the above reasons, the currently-applied references are not applicable to the subject matter of the pending claims in the manner suggested by the Office Action. Nor are the references combinable in the manner suggested. Additionally, no objective evidence of record has been provided to support the mere conclusory statements in either the Office Action or the Advisory Action.